IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE ELEVENTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO.10571 of 2004

Between:

Cheruku Kanaka Rao, S/o.Bhavana Rushi, 53 years,
Kuchipudi, Movva Mandal, Krishna District.

...PETITIONER

AND

1. The District Collector, Krishna at Machilipatnam.
2. The Joint Collector, Krishna at Machilipatnam.
3. The Revenue Divisional Officer, Machilipatnam, Krishna District.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ order or directions more particularly one in the nature of Writ of Mandamus declaring the proceeding R.C.No.3177/2002 dated 14.06.2004 issued by the 3rd Respondent as illegal, improper, unjust and violative of the principles of natural justice and also under Article 14 of the Constitution of India and consequently direct the 2nd respondent to dispose the appeal filed by the petitioner.

Counsel for the Petitioner: MRS.Y.ANUPAMA DEVI

Counsel for the Respondents: GP FOR CIVIL SUPPLIES

The Court made the following:

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THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO.10571 of 2004

ORDER:

The petitioner was appointed as fair price shop dealer of shop No.9, Kuchipudi village, Movva Mandal, Krishna District. This Writ Petition is filed seeking a declaration that the proceedings dated14.06.2004 under which the 3rd respondent-Revenue Divisional Officer (RDO) invited applications for appointment of a dealer in respect of the fair price shop in question as arbitrary and illegal. The contention of the petitioner is that in the year 1997, the authorization of the petitioner was suspended on the allegation of certain irregularities in distribution of essential commodities and thereafter after conducting due enquiry, the third respondent passed final orders on 06.012.1999 cancelling his authorization. The petitioner states that an appeal has been preferred before the second respondent against the order of cancellation and while the appeal is still pending, the respondents have issued the impugned notification. Assailing the same, the present Writ Petition is filed.

This Court while directing notice before admission directed the respondents not to finalize the appointments under the impugned notification. Now a counter-affidavit has been filed on behalf of the respondents stating that the authorization of the petitioner was cancelled long back on 06.12.1999. Against the said order, the

petitioner failed to prefer any appeal and therefore, the shop is being run through a temporary dealer and since there is a clear vacancy, the impugned notification has been issued inviting the applications for appointment the dealer.

Though the petitioner filed a reply-affidavit disputing the version of the respondents, nothing has been placed before the Court to show that any appeal is pending against the order of the RDO dated 06.12.1999 cancelling the authorization of the petitioner. On the other hand, the endorsement made by the Joint Collector, Krishna District, dated 02.08.2004, shows that no such appeal against the order of cancellation dated 06.12.1999 is pending in the office of the Joint Collector.

Having regard to the facts and circumstances of the case, the action of the respondents in notifying the vacancy and taking steps for appointment of a permanent dealer cannot be found fault with.

Accordingly the Writ Petition is dismissed. No costs.

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(G.ROHINI, J)

11th October 2004

RRB

Copy To:

1. The District Collector, Krishna at Machilipatnam.
2. The Joint Collector, Krishna at Machilipatnam.
3. The Revenue Divisional Officer, Machilipatnam, Krishna District.
4. Two CCs to G.P. for Civil Supplies, High Court Buildings, Hyderabad (OUT).
5. Two CD copies.